IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

CHAMBER SUMMONS NO.14 OF 2007

IN

PETITION NO.747 OF 2004

Ms.Usha Venugopal Mody. ..Petitioner

vs.

The Prothonotary & Sr.Master.
High Court, Bombay. ...Respondent.

Mr.F.D'vitre i/b. M/s.Federal & Rashmikant, for Petitioner.

CORAM: D.K.DESHMUKH,J.

DATED: 1st March, 2007.

P.C.:-

Following are the undisputed position.

1. The deceased Mr.Rustam Jehangir Mody died on 20.10.2001. He was parsi by religion. He left behind two heirs viz. (i) Widow who is the petitioner in the present chamber summons and (ii) mother. The petition for letters of administration was filed which was petition no.747 of 2004. The mother was cited as heir in that petition,

without prejudice to the contention of the petitioner that she is sole heir. Despite service of the citation, the mother did not appear, did not file any caveat.

2. Now the mother has expired on 25.6.2006. The petitioner, therefore, has taken out this chamber summons for direction to the office for processing the petition as non contested petition in order to grant the letters of administration.

3. Perusal of the provision of Section 219 of the Indian Succession Act,1925 shows that this provision applies in case of Parsis and first right to get the letters of administration is that of Widow, unless the Court sees some ground for denying that right to the widow. Now admittedly as the mother has died, the office will have to process the petition as uncontested petition for the letters of administration. It goes without saying that in case the letters of administration are granted, the petitioner will have to administer the estate in accordance with law and also to distribute it in accordance with law. If the petitioner does not do it, the persons who may be entitled to any shares in the estate will be free to make grievance before the court and seek appropriate orders. The chamber summons is therefore, granted in terms of prayer clause (a).